

Remarks

Claims 1, 3, 8, 10, 15, and 17-22 are pending.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 8, 10, 15, 17, 18, and 22 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 8 recites a device comprising means. These means are not inherently physical components, and appear to have the capability of being performed entirely in software, since most of the specification is directed to algorithms and methods. Stating that the claim is a "device" is insignificant, since this "device" only comprises means that could be software. Therefore, claim 8 is a system of software, per se, and fails to fall within a statutory category of invention. The claims dependent from claim 8 (claims 10, 15, and 18), are also non-statutory. The addition of physical components in claim 15 does not specify that any of the means of claim 8 include physical components. Claim 18 recites an apparatus comprising a device according to claim 8, and is also a system of software, per se.

Claim 17 recites an apparatus comprising means suitable for implementing the method according to claim 1. As above with claim 8, the means of claim 17 do not inherently include physical components, making claim 17 a system of software, per se, and thus, non-statutory.

Claim 22 recites a "computer program product embodying a computer program". This wording "computer program product" is not found within the specification. Since computer program products are not disclosed in the specification, one cannot tell if this product is stored on a computer readable storage medium (e.g. DVD, CD, etc.), transmitted over a communication medium, or what this computer program product entails.

Allowable Subject Matter

2. Claims 1, 3, and 19-21 are allowed. Claims 8, 10, 15, 17, 18, and 22 would be allowable if amended to overcome the rejections under 35 U.S.C. 101 set forth in this office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JEFFREY D. POPHAM whose telephone number is (571)272-7215. The examiner can normally be reached on M-F 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571)272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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